

DRAFT RECODIFICATION

Title 79 RCW PUBLIC LANDS

Chapter 79.14 RCW MINERAL, COAL, OIL AND GAS LEASES

PART I Oil and Gas

RCW 79.14.010 Definitions.

~~Whenever As used in this chapter, unless the context otherwise requires, words and terms shall have the meaning attributed to them herein:~~

~~——(1) "public lands" ÷ means lands and areas belonging to or held in trust by the state, including tide and submerged lands of the Pacific Ocean or any arm thereof and lands of every kind and nature including mineral rights reserved to the state.~~

~~(2) "Commissioner": The commissioner of public lands of the state of Washington.~~
{“commissioner” is defined in 79.02.010. This definition of “public lands” in this section is different, much broader and must be retained for purposes of interpreting this chapter.}

[1967 c 163 § 6; 1955 c 131 § 1. Prior: 1937 c 161 § 1. Formerly RCW 78.28.280.]

Notes:

1967 c 163 adopted to implement Amendment 42--Severability--1967 c 163: See notes following RCW 64.16.005.

RCW 79.14.020 Leases authorized--Terms--Duration.

The ~~commissioner~~ department is authorized to lease public lands for the purpose of prospecting for, developing and producing oil, gas or other hydrocarbon substances. Each such lease is to be composed of not more than six hundred forty acres or an entire government surveyed section, except a lease on river bed, lake bed, tide and submerged lands which is to be composed of not more than one thousand nine hundred twenty acres. All leases shall contain such terms and conditions as may be prescribed by the rules ~~and regulations~~ adopted by the commissioner in accordance with the provisions of this chapter. Leases may be for an initial term of from five up to ten years and shall be extended for so long thereafter as lessee shall comply with one of the following conditions: (1) Prosecute development on the leased land with the due diligence of a prudent operator upon encountering oil, gas, or other hydrocarbon substances, (2) produce any of said substances from the leased lands, (3) engage in drilling, deepening, repairing, or redrilling any well thereon, or (4) participate in a unit plan to which the commissioner has consented under RCW 78.52.450.

[1986 c 34 § 1; 1985 c 459 § 2; 1955 c 131 § 2. Prior: 1937 c 161 §§ 2, 3; 1927 c 255 §§ 175, 176. Formerly RCW 78.28.290.]

Notes:

Severability--1985 c 459: See note following RCW 79.01.668.

RCW 79.14.030 Rental fees--Minimum royalties.

The department of natural resources shall require as a prerequisite to the issuing of any lease a rental as set by the board of natural resources but not less than one dollar and twenty-five cents per acre or such prorated share of the rental per acre as the state's mineral rights ownership for the first year of such lease, payable in advance to the department of natural resources at the time the lease is awarded and a like rental annually in advance thereafter so long as such lease remains in force : ~~PROVIDED, That such~~ However, the rental shall cease at such time as royalty accrues to the state from production from such lease. Commencing with the lease year beginning on or after oil, gas or other hydrocarbon substances are first produced in quantities deemed paying quantities by lessee on the land subject to such lease, lessee shall pay a minimum royalty as set by the board of natural resources but not less than five dollars per acre or fraction thereof or such prorated share of the rental per acre as the state's mineral rights ownership at the expiration of each year. Royalties payable by the lessee shall be the royalties from production as provided for in RCW 79.14.070 or the minimum royalty provided herein, whichever is greater: ~~PROVIDED, That~~ However, if such lease is unitized, the minimum royalty shall be payable only on the leased acreage after production is obtained in such paying quantities from such lease.

[1985 c 459 § 3; 1980 c 151 § 1; 1955 c 131 § 3. Prior: 1937 c 161 § 4; 1927 c 255 § 176. Formerly RCW 78.28.300.]

Notes:

Severability--1985 c 459: See note following RCW 79.01.668.

RCW 79.14.040 Compensation to owners of private rights and to state for surface damage.

No lessee shall commence any operation upon lands covered by ~~his~~ the lease until such lessee has provided for compensation to owners of private rights therein according to law, or in lieu thereof, filed a surety bond with the ~~commissioner~~ department in an amount sufficient in the opinion of the commissioner to cover such compensation until the amount of compensation is determined by agreement, arbitration or judicial decision and has provided for compensation to the state of Washington for damage to the surface rights of the state in accordance with the rules ~~and regulations~~ adopted by the ~~commissioner~~ department.

[1955 c 131 § 4. Prior: 1937 c 161 § 6; 1927 c 255 § 175. Formerly RCW 78.28.310.]

RCW 79.14.050 Drilling operations beyond lease term--Lease provisions.

All leases shall provide that if oil, gas or other hydrocarbon substances are not encountered on or before the end of the initial term, the lease shall not terminate if the lessee is then prosecuting drilling operations on the leased lands with due diligence, in which event the same shall remain in force so long as lessee shall keep one string of tools in operation on the

leased lands, allowing not to exceed ninety days between the completion of one well and the commencement of the next until such substances are encountered in quantities deemed paying quantities by lessee. All leases shall further provide that if oil, gas or other hydrocarbon substances in paying quantities shall have been discovered on the leased lands prior to the expiration of the initial term, then in the event at any time after the expiration of the initial term production on the leased land shall cease from any cause, the lease shall not terminate provided lessee resumes operations for the drilling of a well or the restoration of production within ninety days from such cessation. The lease shall remain in force during the prosecution of such operations, and if production results therefrom, then so long as production continues.

[1985 c 459 § 4; 1955 c 131 § 5. Prior: 1937 c 161 § 7; 1927 c 255 § 180. Formerly RCW 78.28.320.]

Notes:

Severability--1985 c 459: See note following RCW 79.01.668.

RCW 79.14.060 Surrender of lease--Liability.

Every lessee shall have the option of surrendering his lease as to all or any portion or portions of the land covered thereby at any time and shall be relieved of all liability thereunder with respect to the land so surrendered except for monetary payments theretofore accrued and except for physical damage to the premises embraced by his lease which have been occasioned by his operations.

[1955 c 131 § 6. Prior: 1937 c 161 §§ 8, 10. Formerly RCW 78.28.330.]

RCW 79.14.070 Royalties.

All oil and gas leases issued pursuant to this chapter shall be upon a royalty of not less than twelve and one-half percent of the gross production of all oil, gas or other hydrocarbons produced and saved from the lands covered by such lease.

[1955 c 131 § 7. Prior: 1937 c 161 § 9; 1927 c 255 § 176. Formerly RCW 78.28.340.]

RCW 79.14.080 Leases of land within a geologic structure.

Oil and gas leases shall not be issued on unleased lands which have been classified by the ~~commissioner~~ department as being within a known geologic structure of a producing oil or gas field, except as follows: Upon application of any person, the ~~commissioner~~ department shall lease in areas not exceeding six hundred forty acres, at public auction, any or all unleased lands within such geologic structure to the person offering the greatest cash bonus therefor at such auction. Notice of the offer of such lands for lease will be given by publication in a newspaper of general circulation in Olympia, Washington, and in such other publications as the ~~commissioner~~ department may authorize. The first publication shall be at least thirty days prior to the date of sale.

[1955 c 131 § 8. Prior: 1937 c 161 §§ 5, 11. Formerly RCW 78.28.350.]

RCW 79.14.090 Cancellation or forfeiture of leases--New leases.

The ~~commissioner~~ department is hereby authorized to cancel any lease issued as provided ~~herein in this section~~ for nonpayment of rentals or royalties or nonperformance by the lessee of any provision or requirement of the lease: ~~PROVIDED, That~~ However, before any such cancellation ~~shall be~~ is made, the ~~commissioner~~ department shall mail to the lessee by registered mail, addressed to the post office address of such lessee shown by the records of the ~~office of the commissioner~~ department, a notice of intention to cancel such lease specifying the default for which the lease is subject to cancellation. If lessee shall, within thirty days after the mailing of said notice to the lessee, commence and thereafter diligently and in good faith prosecute the remedying of the default specified in such notice, then no cancellation of the lease shall be entered by the ~~commissioner~~ department. Otherwise, the ~~said~~ cancellation shall be made and all rights of the lessee under the lease shall automatically terminate, except that lessee shall retain the right to continue its possession and operation of any well or wells in regard to which lessee is not in default: ~~PROVIDED FURTHER, That~~ Further, failure to pay rental and royalty required under leases within the time prescribed therein shall automatically and without notice work a forfeiture of such leases and of all rights thereunder. Upon the expiration, forfeiture, or surrender of any lease, no new lease covering the lands or any of them embraced by such expired, forfeited, or surrendered lease, shall be issued for a period of ten days following the date of such expiration, forfeiture, or surrender. If more than one application for a lease covering such lands or any of them shall be made during such ten-day period the ~~commissioner~~ department shall issue a lease to such lands or any of them to the person offering the greatest cash bonus for such lease at a public auction to be held at the time and place and in the manner as the ~~commissioner~~ department shall ~~by regulation prescribe~~ adopt by rule.

[1955 c 131 § 9. Prior: 1937 c 161 § 12; 1927 c 255 § 179. Formerly RCW 78.28.360.]

RCW 79.14.100 Cooperative or unit plans--Communization or drilling agreements.

For the purpose of more properly conserving the natural resources of any oil or gas pool, field, or like area, lessees thereon and their representatives may unite with each other, or jointly or separately with others, in collectively adopting and operating under a cooperative [or] unit plan of development or operation of such pool, field, or like area, or any part thereof, whenever determined and certified by ~~commissioner~~ the department to be necessary or advisable in the public interest. The ~~commissioner~~ department is ~~thereunto~~ authorized, in ~~his~~ its discretion, with the consent of the holders of leases involved, in order to conform with the terms and conditions of any such cooperative or unit plan to establish, alter, change or revoke exploration, drilling, producing, rental, and royalty requirements of such leases with like consent on the part of the lessees, in connection with the institution and operation of any such cooperative or unit plan as ~~he~~ the department may deem necessary or proper to secure the proper protection of the public interest.

When separate tracts cannot be independently developed and operated in conformity with an established well spacing or development program, any lease or any portion thereof may be pooled with other lands, whether or not owned by the state of Washington under a communization or drilling agreement providing for an apportionment of production or royalties among the separate tracts of land comprising the drilling or spacing unit when determined by the ~~commissioner~~ department to be in the public interest, and operations or production pursuant to

such an agreement shall be deemed to be operations or production as to each such lease committed thereto.

The term of any lease that has become the subject of any cooperative or unit plan of development or operation of a pool, field, or like area, which plan has the approval of the ~~commissioner~~ department, shall continue in force until the termination of such plan, and in the event such plan is terminated prior to the expiration of any such lease, the original term of such lease shall continue. Any lease under this chapter hereinafter committed to any such plan embracing lands that are in part within and in part outside of the area covered by any such plan, shall be segregated in separate leases as to the lands committed and the land not committed as of the effective date of unitization.

[1955 c 131 § 10. Prior: 1937 c 161 § 14. Formerly RCW 78.28.370.]

RCW 79.14.110 Customary provisions in leases.

The ~~commissioner~~ department is authorized to insert in any lease issued under the provisions of this chapter such terms as are customary and proper for the protection of the rights of the state and of the lessee and of the owners of the surface of the leased lands not in conflict with the provisions of this chapter.

[1955 c 131 § 11. Prior: 1937 c 161 § 15; 1927 c 255 § 178. Formerly RCW 78.28.380.]

RCW 79.14.120 Rules and regulations.

The ~~commissioner~~ department is required to ~~prescribe~~ adopt and publish, for the information of the public, all reasonable rules ~~and regulations~~ necessary for carrying out the provisions of this chapter. ~~He~~ The department may amend or rescind any rule ~~or regulation~~ promulgated by him adopted under the authority contained ~~herein~~ herein: ~~PROVIDED, That in this section. However,~~ no rule ~~or regulation~~ or amendment of the same or any order rescinding any rule ~~or regulation~~ shall become effective until after thirty days from the ~~promulgation~~ adoption of the same by publication in a newspaper of general circulation published at the state capitol and shall take effect and be in force at times specified therein. All rules ~~and regulations~~ of the ~~commissioner~~ department and all amendments or revocations of existing rules ~~and regulations~~ shall be recorded in an appropriate book or books, shall be adequately indexed, and shall be kept in the ~~office of the commissioner~~ department and shall constitute a public record. Such rules and regulations of the ~~commissioner~~ department shall be printed in pamphlet form and furnished to the public free of cost.

[1955 c 131 § 12. Prior: 1937 c 161 § 16; 1927 c 255 § 178. Formerly RCW 78.28.390.]

RCW 79.14.130 Wells to be located minimum distance from boundaries--Exception.

Each lease issued under this chapter shall provide that without the approval of the ~~commissioner~~ department, no well shall be drilled on the lands demised thereby in such manner or at such location that the producing interval thereof shall be less than three hundred thirty feet from any of the outer boundaries of the demised lands, except that if the right to oil, gas or other

hydrocarbons underlying adjoining lands be vested in private ownership, such approval shall not be required.

[1955 c 131 § 13. Prior: 1937 c 161 § 17. Formerly RCW 78.28.400.]

RCW 79.14.140 Rights of way over public lands--Payment for timber.

Any person granted a lease under the provisions of this chapter shall have a right of way over public lands, as provided by law, when necessary, for the drilling, recovering, saving and marketing of oil, gas or other hydrocarbons. Before any such right of way grant shall become effective, a written application for, and a plat showing the location of, such a right of way, and the land necessary for the well site and drilling operations, with reference to adjoining lands, shall be filed with the ~~commissioner~~ department. All timber on ~~said~~ the right of way and the land necessary for the drilling operation, shall be appraised by the ~~commissioner~~ department and paid for in money by the person to whom the lease is granted.

[1955 c 131 § 14. Prior: 1937 c 161 § 18. Formerly RCW 78.28.410.]

RCW 79.14.150 Sales of timber--Rules.

All sales of timber, as prescribed in this chapter, shall be made subject to the right, power and authority of the ~~commissioner~~ department to ~~prescribe~~ adopt rules ~~and regulations~~ governing the manner of the removal of the merchantable timber upon any lands embraced within any lease with the view of protecting the same and other timber against destruction or injury by fire or from other causes. ~~Such~~ The rules ~~or regulations~~ shall be binding upon the lessee, his or her successors in interest, and shall be enforced by the ~~commissioner~~ department.

[1955 c 131 § 15. Prior: 1937 c 161 § 19. Formerly RCW 78.28.420.]

RCW 79.14.160 Development after discovery.

After the discovery of oil, gas or other hydrocarbons in paying quantities, lessee shall proceed to develop the oil, gas or other hydrocarbons in the lands covered thereby through the drilling of such wells as will efficiently extract the oil, gas or other hydrocarbons therefrom and such development shall take into account the productiveness of the producing horizon, the depth at which it occurs, the average cost of wells, the market requirements obtaining at any given time, and the maintenance of proper oil and gas ratios.

[1955 c 131 § 16. Prior: 1937 c 161 § 20. Formerly RCW 78.28.430.]

RCW 79.14.170 Spacing and offsetting of wells.

All leases shall contain such terms, conditions, and provisions as will protect the interests of the state with reference to spacing of wells for the purpose of offsetting any wells on privately owned lands.

[1955 c 131 § 17. Prior: 1937 c 161 § 21. Formerly RCW 78.28.440.]

RCW 79.14.180 Lands may be withheld from leasing.

Nothing contained in this chapter shall be construed as requiring the ~~commissioner~~ department to offer any tract or tracts of land for lease; but the ~~commissioner~~ department shall have power to withhold any tract or tracts from leasing for oil, gas or other hydrocarbons, if, in ~~his~~ its judgment, the best interest of the state will be served by so doing.

[1955 c 131 § 18. Prior: 1937 c 161 § 24. Formerly RCW 78.28.450.]

RCW 79.14.190 Payment of royalty share--Royalty in kind.

The lessee shall pay to the ~~commissioner~~ department the market value at the well of the state's royalty share of oil and other hydrocarbons except gas produced and saved and delivered by lessee from the lease. In lieu of receiving payment for the market value of the state's royalty share of oil, the ~~commissioner~~ department may elect that such royalty share of oil be delivered in kind at the mouth of the wells into tanks provided by the ~~commissioner~~ department. Lessee shall pay to the ~~commissioner~~ department the state's royalty share of the sale price received by the lessee for gas produced and saved and sold from the lease. If such gas is not sold but is used by lessee for the manufacture of gasoline or other products, lessee shall pay to the ~~commissioner~~ department the market value of the state's royalty share of the residue gas and other products, less a proper allowance for extraction costs.

[1955 c 131 § 19. Prior: 1937 c 161 § 25. Formerly RCW 78.28.460.]

RCW 79.14.200 Prior permits validated--Relinquishment for new leases.

All exploration permits issued by the ~~commissioner~~ department prior to June 9, 1955, which have not expired or been legally canceled for nonperformance by the permittees, are hereby declared to be valid and existing contracts with the state of Washington, according to their terms and provisions. The obligation of the state to conform to the terms and provisions of such permits is hereby recognized, and the ~~commissioner~~ department is directed to accept and recognize all such permits according to their express terms and provisions. No repeal or amendment made by this chapter shall affect any right acquired under the law as it existed prior to such repeal or amendment, and such right shall be governed by the law in effect at time of its acquisition. Any permit recognized and confirmed by this section may be relinquished to the state by the permittee, and a new lease or, if such permit contains more than six hundred forty acres, new leases in the form provided for in this chapter, shall be issued in lieu of same and without bonus therefor; but the new lease or leases so issued shall be as provided for in this chapter and governed by the applicable provisions of this chapter instead of by the law in effect prior thereto.

[1955 c 131 § 20. Prior: 1937 c 161 § 26. Formerly RCW 78.28.470.]

RCW 79.14.210 Assignments and subleases of leases.

Any oil or gas lease issued under the authority of this chapter may be assigned or subleased as to all or part of the acreage included therein, subject to final approval by the

~~commissioner department~~, and as to either a divided or undivided interest therein to any person. Any assignment or sublease shall take effect as of the first day of the lease month following the date of filing with the ~~commissioner department~~ : ~~PROVIDED, HOWEVER, That the commissioner may, in his~~ . However, at the department's discretion, it may disapprove an assignment of a separate zone or deposit under any lease or of a part of a legal subdivision. Upon approval of any assignment or sublease, the assignee or sublessee shall be bound by the terms of the lease to the same extent as if such assignee or sublessee were the original lessee, any conditions in the assignment or sublease to the contrary notwithstanding. Any partial assignment of any lease shall segregate the assigned and retained portions thereof, and upon approval of such assignment by the ~~commissioner department~~, the assignor shall be released and discharged from all obligations thereafter accruing with respect to the assigned lands.

[1955 c 131 § 21. Prior: 1937 c 161 § 27. Formerly RCW 78.28.480.]

RCW 79.14.220 Appeal from rulings of commissioner.

Any applicant for a lease under this chapter, feeling ~~himself~~ aggrieved by any order ~~or~~ , decision, ~~or~~ rule ~~or regulation~~ of the commissioner ~~of public lands~~, concerning the same, may appeal therefrom to the superior court of the county wherein such lands are situated, as provided by RCW ~~79.01.500~~ 79.02.030.

[1955 c 131 § 22. Prior: 1937 c 161 § 28. Formerly RCW 78.28.490.]

**PART II
Prospecting and Mining**

RCW ~~79.01.616~~ 79.14.300 Prospecting and mining contracts--~~Authority--Leases and permits for prospecting and contracts for mining valuable minerals and specified materials--Execution authorized--Lands subject to--Size of tracts.~~

The department ~~of natural resources~~ may issue permits and leases for prospecting, and contracts for the mining of valuable minerals and specified materials, except rock, gravel, sand, silt, coal, or hydrocarbons, upon and from any public lands belonging to or held in trust by the state, or which have been sold and the minerals thereon reserved by the state in tracts not to exceed six hundred forty acres or an entire government-surveyed section.

[1987 c 20 § 1; 1965 c 56 § 2; 1927 c 255 § 155; RRS § 7797-155. Prior: 1917 c 148 § 1; 1915 c 152 § 1; 1897 c 102 § 1. Formerly RCW 78.20.010, part, and 78.20.020.]

RCW ~~79.01.617~~ 79.14.310 Prospecting and mining--~~Public auction of mining contracts.~~

The department ~~of natural resources~~ may offer nonrenewable placer mining contracts by

public auction for the mining of gold under terms set by the department. In the case of lands known to contain valuable minerals or specified materials in commercially significant quantities, the department may offer mining contracts by public auction.

[1987 c 20 § 2.]

RCW ~~79.01.651~~ 79.14.315 ~~Prospecting and mining—Recreational mineral prospecting permits.~~

The department may issue permits for recreational mineral prospecting in designated areas containing noneconomic mineral deposits. The term of a permit shall not exceed one year. Designated areas, equipment allowed, methods of prospecting, as well as other appropriate permit conditions, shall be set in rules adopted by the department. Fees shall be set by the board of natural resources.

[1987 c 20 § 15.]

RCW ~~79.01.618~~ 79.14.320 ~~Prospecting and mining—Mineral leases, contracts, and permits—Department may promulgate Rules.~~

The department ~~of natural resources~~ may adopt rules necessary for carrying out the mineral leasing, contracting, and permitting provisions of RCW ~~79.01.616 through 79.01.651~~ 79.14.300 through 79.14.450. Such rules shall be enacted under chapter 34.05 RCW. The department may amend or rescind any rules adopted under this section. The department shall publish these rules in pamphlet form for the information of the public.

[1987 c 20 § 3; 1983 c 3 § 200; 1965 c 56 § 3.]

RCW ~~79.01.620~~ 79.14.330 ~~Prospecting lease-- and mining—Leases for mineral prospecting—Application fee—Fees—Rejection.~~

Any person desiring to obtain a lease for mineral prospecting purposes upon any lands in which the mineral rights are owned or administered by the department ~~of natural resources~~, shall file in the proper office of the department an application or applications therefor, upon the prescribed form, together with application fees. The department may reject an application for a mineral prospecting lease when the department determines rejection to be in the best interests of the state, and in such case shall inform the applicant of the reason for rejection and refund the application fee. The department may also reject the application and declare the application fee forfeited should the applicant fail to execute the lease.

[1987 c 20 § 4; 1965 c 56 § 4; 1927 c 255 § 156; RRS § 7797-156. Prior: 1917 c 148 § 2; 1901 c 151 §§ 1, 2; 1897 c 102 §§ 2, 5. Formerly RCW 78.20.010, part, and RCW 78.20.030.]

RCW ~~79.01.624~~ 79.14.340 ~~Prospecting and mining—Compliance with mineral rights reservations—Compensation for loss or damage to surface rights.~~

Where the surface rights are held by a third party, the lessee shall not exercise the rights reserved by the state upon lands covered by the lessee's lease or contract until the lessee has

provided the department with satisfactory evidence of compliance with the requirements of the state's mineral rights reservations. Where the surface rights are held by the state, the lessee shall not exercise its mineral rights upon lands covered by the lessee's lease or contract until the lessee has made satisfactory arrangements with the department to compensate the state for loss or damage to the state's surface rights.

[1987 c 20 § 5; 1965 c 56 § 5; 1927 c 255 § 157; RRS § 7797-157. Prior: 1917 c 148 § 3; 1899 c 147 § 1; 1897 c 102 § 6. Formerly RCW 78.20.040.]

RCW 79.01.628 79.14.350 ~~Prospecting and mining--Prospecting leases--Term of lease--Rental--Mining contract required for extraction for commercial sale or use--Annual prospecting work--Termination of lease~~ Conditions.

Leases for prospecting purposes may be for a term of up to seven years from the date of the lease. The lessee shall pay an annual lease rental as set by the board of natural resources. The annual lease rental shall be paid in advance. The lessee shall not have the right to extract and remove for commercial sale or use from the leased premises any minerals or specified materials found on the premises except upon obtaining a mining contract. The lessee shall perform annual prospecting work in cost amounts as set by the board of natural resources. The lessee may make payment to the department in lieu of the performance of annual prospecting work for up to three years during the term of the lease. Prospecting work performed must contribute to the mineral evaluation of the leased premises.

The lessee may at any time give notice of intent to terminate the lease if all of the covenants of the lease including reclamation are met. The notice of termination of lease shall be made by giving written notice together with copies of all information obtained from the premises. The lease shall terminate sixty days thereafter if all arrears and sums which are due under the lease up to the time of termination have been paid.

[1987 c 20 § 6; 1965 c 56 § 6; 1945 c 103 § 1; 1927 c 255 § 158; RRS § 7797-158. Prior: 1897 c 102 §§ 4, 5. Formerly RCW 78.20.050.]

RCW 79.01.632 79.14.360 ~~Prospecting and mining--Conversion of prospecting lease into contract--Preference--Time for application--Plans for development and reclamation--Development work--Termination of contract--Nonconversion, effect~~ Prospecting lease--Conversion to mining contract.

The holder of any prospecting lease shall have a preference right to a mining contract on the premises described in the lease if application therefor is made to the department ~~of natural resources~~ at least one hundred eighty days prior to the expiration of the prospecting lease.

A lessee applying for a mining contract shall furnish plans for development leading toward production. The plans shall address the reclamation of the property. A mining contract shall be for a term of twenty years.

The first year of the contract and each year thereafter, the lessee shall perform development work in cost amounts as set by the board ~~of natural resources~~. The lessee may make payment to the department in lieu of development work.

The lessee may at any time give notice of intent to terminate the contract if all of the covenants of the contract including reclamation are met. The notice of termination of contract shall be made by giving written notice together with copies of all information obtained from the

premises. The contract shall terminate sixty days thereafter if all arrears and sums which are due under the contract up to the time of termination have been paid.

The lessee shall have sixty days from the termination date of the contract in which to remove improvements, except those necessary for the safety and maintenance of mine workings, from the premises without material damage to the land or subsurface covered by the contract. However, the lessee shall upon written request to the department be granted an extension where forces beyond the control of the lessee prevent removal of the improvements within sixty days.

Any lessee not converting a prospecting lease to a mining contract shall not be entitled to a new prospecting lease on the lease premises for one year from the expiration date of the prior lease. Such lands included in the prospecting lease shall be open to application by any person other than the prior lessee, and the lessee's agents or associates during the year period described above.

[1987 c 20 § 7; 1965 c 56 § 7; 1927 c 255 § 159; RRS § 7797-159. Prior: 1901 c 151 § 4. Formerly RCW 78.20.060.]

RCW ~~79.01.633~~ 79.14.370 Prospecting and mining--Lessee's rights and duties ~~relative to owner of surface rights.~~

Where the surface rights have been sold and the minerals retained by the state, the state's right of entry to these lands is ~~hereby~~ transferred and assigned to the lessee during the life of the lease or contract. No lessee shall commence any operation upon lands covered by his or her lease or contract until the lessee has complied with RCW ~~79.01.624~~ 79.14.340.

[1987 c 20 § 8; 1965 c 56 § 8.]

RCW ~~79.01.634~~ 79.14.380 Prospecting and mining--~~Termination of lease or contract for default.~~

The department ~~of natural resources~~ shall terminate and cancel a prospecting lease or mining contract upon failure of the lessee to make payment of the annual rental or royalties or comply with the terms and conditions of ~~said the~~ lease or contract upon the date such payments and compliances are due. The lessee shall be notified of such termination and cancellation, said notice to be mailed to the last known address of the lessee. Termination and cancellation shall become effective thirty days from the date of mailing ~~said the~~ notice ~~÷ PROVIDED, That ÷~~ However, the department may, upon written request from the lessee, grant an extension of time in which to make such payment or comply with ~~said the~~ terms and conditions.

[1987 c 20 § 9; 1965 c 56 § 9.]

RCW ~~79.01.640~~ 79.14.390 Prospecting leases and mining contracts--Form, terms, and conditions of ~~prospecting leases and mining contracts~~ Subcontracts.

Prospecting leases or mining contracts referred to in chapter ~~79.01~~ 79.14 RCW shall be as prescribed by, and in accordance with rules adopted by the department ~~of natural resources~~.

The department may include in any mineral prospecting lease or mining contract to be

issued under this chapter such terms and conditions as are customary and proper for the protection of the rights of the state and of the lessee not in conflict with this chapter, or rules adopted by the department.

Any lessee shall have the right to contract with others to work or operate the leased premises or any part thereof or to subcontract the same and the use of ~~said~~ the land or any part thereof for the purpose of mining for valuable minerals or specified materials, with the same rights and privileges granted to the lessee. Notice of such contracting or subcontracting with others to work or operate the property shall be made in writing to the department.

[1987 c 20 § 10; 1965 c 56 § 11; 1927 c 255 § 161; RRS § 7797-161. Prior: 1917 c 148 § 3; 1899 c 147 § 1; 1897 c 102 § 6. Formerly RCW 78.20.080.]

RCW ~~79.01.642~~ 79.14.400 Prospecting and mining--Reclamation of premises.

At time of termination for any mineral prospecting lease, permit, mining contract, or placer mining contract, the premises shall be reclaimed in accordance with plans approved by the department.

[1987 c 20 § 11.]

RCW ~~79.01.644~~ 79.14.410 Prospecting and mining--~~Mining contracts--Production royalties--Minimum royalty.~~

Mining contracts entered into as provided in chapter ~~79.01~~ 79.14 RCW shall provide for the payment to the state of production royalties as set by the board ~~of natural resources~~. A lessee shall pay in advance annually a minimum royalty which shall be set by the board ~~of natural resources~~. The minimum royalty shall be allowed as a credit against production royalties due during the contract year.

[1987 c 20 § 12; 1965 c 56 § 12; 1959 c 257 § 38; 1945 c 103 § 2; 1927 c 255 § 162; Rem. Supp. 1945 § 7797-162. Prior: 1917 c 148 § 4; 1901 c 151 § 3; 1897 c 89 § 7. Formerly RCW 78.20.090.]

RCW ~~79.01.645~~ 79.14.420 Prospecting and mining--~~Renewal of Mining contracts--Renewal of contract.~~

The lessee may apply for the renewal of a mining contract, except placer mining contracts issued pursuant to RCW ~~79.01.617~~ 79.14.310, to the department within ninety days before the expiration of the contract. Upon receipt of the application, the department shall make the necessary investigation to determine whether the terms of the contract have been complied with, and if the department finds they have been complied with in good faith, the department shall renew the contract. The terms and conditions of the renewal contract shall remain the same except for royalty rates, which shall be determined by reference to then existing law.

[1987 c 20 § 13.]

RCW ~~79.01.648~~ 79.14.430 Prospecting and mining--Consolidation of ~~mining contracts.~~

The holders of two or more mining contracts may consolidate ~~said~~ the contracts under a common management to permit proper operation of large scale developments. Notification of

such consolidation shall be made to the department ~~of natural resources~~, together with a statement of plans of operation and proposed consolidation. The department may thereafter make examinations and investigations and if it finds that such consolidation is not in the best interest of the state, it shall disapprove such consolidated operation.

[1965 c 56 § 13; 1945 c 103 § 3 (adding a new section to 1927 c 255, section 162-1); Rem. Supp. 1945 § 7797-162a. Formerly RCW 78.20.100.]

RCW ~~79.01.649~~ 79.14.440 Prospecting and mining--~~State may enter lands and examine property and records--Disclosure of information.~~

Any person designated by the department ~~of natural resources~~ shall have the right at any time to enter upon the lands and inspect and examine the structures, works, and mines situated thereon, and shall also have the right to examine such books, records, and accounts of the lessee as are directly connected with the determination of royalties on the property under lease from the state but it shall be unlawful for any person so appointed to disclose any information thus obtained to any person other than the departmental officials and employees, except the attorney general and prosecuting attorneys of the state.

[1965 c 56 § 14.]

RCW ~~79.01.650~~ 79.14.450 Prospecting and mining--~~State may dispose~~ **Disposition of materials not covered by prospecting lease or mining contract--Disposition of timber.**

The state shall have the right to sell or otherwise dispose of any surface resource, timber, rock, gravel, sand, silt, coal, or hydrocarbons, except minerals or materials specifically covered by a mineral prospecting lease or mining contract, found upon the land during the period covered by ~~said~~ the lease or contract. The state shall also have the right to enter upon such land and remove same, and shall not be obliged to withhold from any sale any timber for prospecting or mining purposes. The lessee shall, upon payment to the department ~~of natural resources~~, have the right to cut and use timber found on the leased premises for mining purposes as provided in rules adopted by the department.

[1987 c 20 § 14; 1965 c 56 § 15.]

PART III Coal Mining

RCW ~~79.01.652~~ 79.14.470 ~~Coal mining--Leases and option contracts authorized.~~

The ~~commissioner of public lands~~ department is authorized to execute option contracts and leases for the mining and extraction of coal from any public lands of the state, or to which it may hereafter acquire title, or from any lands sold or leased by the state the minerals of which have been reserved by the state.

[1927 c 255 § 163; RRS § 7797-163. Prior: 1925 ex.s. c 155 § 1. Formerly RCW 78.24.010.]

RCW ~~79.01.656~~ 79.14.480 Coal mining—Application for option contract—Fee.

Any citizen of the United States believing coal to exist upon any of the lands described in the preceding section may apply to the ~~commissioner of public lands department~~ for an option contract for any amount not exceeding one section for prospecting purposes, such application to be made by legal subdivision according to the public land surveys. The applicant shall pay to the ~~commissioner of public lands department~~, at the time of filing his the application, the sum of one dollar an acre for the lands applied for, but in no case less than fifty dollars. In case of the refusal of the ~~commissioner department~~ to execute an option contract for the lands, any remainder of the sum so paid, after deducting the expense incurred by the ~~commissioner department~~ in investigating the character of the land, shall be returned to the applicant.

[1927 c 255 § 164; RRS § 7797-164. Prior: 1925 ex.s. c 155 § 2. Formerly RCW 78.24.020.]

**RCW ~~79.01.660~~ 79.14.490 Coal mining—Investigation and issue of option contract.—
Grant of option contract—Rights and duties of option contract holder.**

(1) Upon the filing of any such application, the ~~commissioner of public lands department~~ shall forthwith investigate the character of the lands applied for, and if, from such investigation, ~~he it~~ deems it to be in the best interests of the state ~~he it~~ shall enter into an option contract with the applicant.

(2) The holder of any option contract shall be entitled, during the period of one year from the date thereof, to:

(a) Enter upon the lands and carry on such work of exploration, examination and prospecting for coal as may be necessary to determine the presence of coal upon the lands and the feasibility of mining the same. ~~He shall have the right to~~

(b) Use such timber found upon the lands and owned by the state as may be necessary for steam purposes and timbering in the examination and prospecting of such lands : ~~PROVIDED, That . However,~~ this provision shall not be construed to require the state to withhold any such timber from sale.

(3) No coal shall be removed from such lands during the period of such option contract except for samples and testing.

(4) At the expiration of the option contract, the applicant shall fill or cover in a substantial manner all prospect holes and shafts, or surround the same with substantial fences, and shall file with the ~~commissioner of public lands department~~ a report showing in detail the result of his the applicant's investigation and prospecting.

[1927 c 255 § 165; RRS § 7797-165. Prior: 1925 ex.s. c 155 § 3. Formerly RCW 78.24.030.]

RCW ~~79.01.664~~ 79.14.500 Coal mining—Action to determine Damage to surface owner or lessee—Commencement of option contract delayed.

In the case of lands which the state may have sold or leased and reserved the mineral rights therein, if the holder of any option contract or lease ~~shall be is~~ unable to agree with the owner or prior lessee of the lands, ~~he the holder~~ shall have a right of action in the superior court of the county in which the land is situated to ascertain and determine the amount of damages which will accrue to such owner or lessee of the land by reason of the entry thereon and

prospecting for or mining coal, as the case may be. In the event of any such action, the term of the option contract or lease shall begin thirty days after the entry of the final judgment in such action.

[1927 c 255 § 166; RRS § 7797-166. Prior: 1925 ex.s. c 155 § 4. Formerly RCW 78.24.070.]

RCW 79.01.668 79.14.510 Coal mining—Lease—Application, terms, royalties.

At any time during the life of the option contract, the holder thereof may apply to the ~~commissioner of public lands department~~ for a coal mining lease of the lands included therein, or such portion thereof as ~~he~~ the holder may specify, for the purpose of mining and extraction of coal therefrom. Such coal mining lease shall be for such term, not more than twenty years, and in such form as may be prescribed by the ~~commissioner of public lands department~~, shall entitle the lessee to mine and sell and dispose of all coal underlying said lands and to occupy and use so much of the surface thereof as may be necessary for bunkers and other outside works, and for railroads, buildings, appliances and appurtenances in connection with the mining operations. Such lease shall provide for the payment to the state of a royalty, according to the grade of coal, for each ton of two thousand pounds of merchantable coal taken from the lands, as follows: For lignite coal of the class commonly found in Lewis and Thurston counties, not less than ten cents per ton; for subbituminous coal, not less than fifteen cents per ton; for high grade bituminous and coking coals, not less than twenty cents per ton; but such lease shall provide for the payment each year of a minimum royalty of not less than one nor more than ten dollars an acre for the lands covered thereby ~~:- PROVIDED, That~~ However, the ~~commissioner of public lands department~~ may agree with the lessee that said minimum royalty shall be graduated for the different years of said lease so that a lower minimum royalty shall be paid during the earlier years of the term. The minimum royalty fixed in the lease shall be paid in advance each year, and the lessee, at stated periods during the term of the lease, fixed by the ~~commissioner department~~, shall furnish to the ~~commissioner of public lands department~~ a written report under oath showing the amount of merchantable coal taken from the land during the period covered by such report and shall remit therewith such sum in excess of the minimum royalty theretofore paid for the current year as may be payable as royalty for the period covered by such report.

The ~~commissioner department~~ shall incorporate in every lease such provisions and conditions not inconsistent with the provisions of this chapter and not inconsistent with good coal mining practice as ~~he it shall~~ deems necessary and proper for the protection of the state, and, in addition thereto, the ~~commissioner department shall be~~ is empowered to ~~prescribe~~ adopt such rules ~~and regulations~~, not inconsistent with this chapter and not inconsistent with good mining practice, governing the manner and methods of mining as in ~~his~~ its judgment are necessary and proper.

[1985 c 459 § 1; 1927 c 255 § 167; RRS § 7797-167. Prior: 1925 ex.s. c 155 § 5. Formerly RCW 78.24.040.]

Notes:

Severability--1985 c 459: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1985 c 459 § 10.]

RCW ~~79.01.672~~ 79.14.520 Coal mining--Lease without option contract.

In the case of lands known to contain workable coal, the ~~commissioner~~ department may, in ~~his~~ its discretion, issue coal mining leases under the foregoing provisions although no option contract has been theretofore issued for such lands.

[1927 c 255 § 168; RRS § 7797-168. Prior: 1925 ex.s. c 155 § 6. Formerly RCW 78.24.050.]

RCW ~~79.01.676~~ 79.14.530 Coal mining--Inspection of works and records--Information confidential Confidential information.

The commissioner of ~~public lands~~ or any person designated by ~~him~~ the commissioner shall ~~have~~ has the right at any time to enter upon the lands and inspect and examine the structures, works and mines situated thereon, and shall also ~~have~~ has the right to examine such books, records and accounts of the lessee as are directly connected with the operation of the mine on the property under lease from the state; but it shall be unlawful for the commissioner or any person so appointed to disclose any information thus obtained to any person other than the commissioner of public lands and his employees or an employee of the department, except the attorney general and prosecuting attorneys of the state.

[1927 c 255 § 169; RRS § 7797-169. Prior: 1925 ex.s. c 155 § 7. Formerly RCW 78.24.060.]

RCW ~~79.01.680~~ 79.14.540 Coal mining--Use and sale of materials from land.

The state shall have the right to sell or otherwise dispose of any timber, stone or other valuable materials, except coal, found upon the land during the period covered by any option contract, or lease issued under the foregoing provisions, with the right to enter upon such lands and cut and remove the same, and shall not be obliged to withhold from sale any timber for coal mining or prospecting purposes: ~~PROVIDED, That~~ However, the lessee shall be permitted to use in ~~his~~ mining operations any timber found upon the land, first paying therefor to the ~~commissioner of public lands department~~ the value thereof as fixed by ~~said commissioner~~ the department: ~~AND PROVIDED FURTHER, That~~ Further, any bill of sale for the removal of timber, stone or other material given subsequent to the coal lease shall contain provisions preventing any interference with the operations of the coal lease.

[1927 c 255 § 170; RRS § 7797-170. Prior: 1925 ex.s. c 155 § 8. Formerly RCW 78.24.080.]

RCW ~~79.01.684~~ 79.14.550 Coal mining--Suspension of mining--Termination of lease.

Should the lessee for any reason, except strikes or inability to mine or dispose of ~~his~~ output without loss, suspend mining operations upon the lands included in ~~his~~ a lease, or upon any contiguous lands operated by ~~him~~ the lessee in connection therewith, for a period of six months, or should the lessee for any reason suspend mining operations upon the lands included in ~~his~~ a lease or in such contiguous lands for a period of twelve months, the ~~commissioner of public lands department~~ may, at ~~his~~ its option, cancel the lease, first giving thirty days' notice in writing to the lessee.

The lessee shall have the right to terminate the lease after thirty days' written notice to the commissioner of public lands and the payment of all royalties and rentals then due.

[1927 c 255 § 171; RRS § 7797-171. Prior: 1925 ex.s. c 155 § 9. Formerly RCW 78.24.090.]

**RCW ~~79.01.688~~ 79.14.560 ~~Coal mining--Condition of premises on termination of lease--~~
~~Removal of personalty.~~**

Upon the termination of any lease issued under the foregoing provisions, the lessee shall surrender the lands and premises and leave in good order and repair all shafts, slopes, airways, tunnels and watercourses then in use. Unless the coal therein is exhausted, ~~he~~ the lessee shall also, as far as it is reasonably practicable so to do, leave open to the face all main entries then in use so that the work of further development and operation may not be unnecessarily hampered. ~~He~~ The lessee shall also leave on the premises all buildings and other structures, but shall have the right to, without damage to such buildings and structures, remove all tracks, machinery and other personal property.

[1927 c 255 § 172; RRS § 7797-172. Prior: 1925 ex.s. c 155 § 10. Formerly RCW 78.24.100.]

RCW ~~79.01.692~~ 79.14.570 ~~Coal mining--Re-lease--Procedure--Preference to lessee rights.~~

If at the expiration of any lease for the mining and extraction of coal or any renewal thereof the lessee desires to re-lease the lands covered thereby, ~~he~~ the lessee may make application to the ~~commissioner of public lands~~ department for a re-lease. Such application shall be in writing and under oath, setting forth the extent, character and value of all improvements, development work and structures existing upon the land. The ~~commissioner of public lands~~ department may on the filing of such application cause the lands to be inspected, and if ~~he~~ the department deems it for the best interests of the state to re-lease said lands, ~~he~~ it shall fix the royalties for the ensuing term in accordance with the foregoing provisions relating to original leases, and issue to the applicant a renewal lease for a further term; such application for a release when received from the lessee, or successor of any lessee, who has in good faith developed and improved the property in a substantial manner during ~~his~~ the original lease to be given preference on equal terms against the application of any new applicant.

[1927 c 255 § 173; RRS § 7797-173. Prior: 1925 ex.s. c 155 § 11. Formerly RCW 78.24.110.]

RCW ~~79.01.696~~ 79.14.580 ~~Coal mining--Waste prohibited.~~

It shall be unlawful for the holder of any coal mining option contract, or any lessee, to commit any waste upon the lands embraced therein, except as may be incident to (~~his~~) the work of prospecting or mining by the option contract holder or lessee.

[1927 c 255 § 174; RRS § 7797-174. Prior: 1925 ex.s. c 155 § 12. Formerly RCW 78.24.120.]

RCW 79.14.900 Severability--1955 c 131.

If any provision or section of this chapter shall be adjudicated to be unconstitutional, such adjudication shall not affect the validity of this chapter as a whole or any part thereof not adjudicated unconstitutional. If any provision of this chapter, or the application of such provision to any person or circumstances is held unconstitutional, invalid or unenforceable, the remainder of this chapter or the application of such provision to persons or circumstances other than those as to which it is held unconstitutional, invalid or unenforceable, shall not be affected thereby.

[1955 c 131 § 23. Formerly RCW 78.28.900.]